

**UNITED STATES DISTRICT COURT**

## **EASTERN DISTRICT OF TEXAS**

REPUBLIC TECHNOLOGIES (NA), LLC  
and REPUBLIC TOBACCO, LP,

## Plaintiffs,

*versus*

THERESA M. GROSS d/b/a TEES CHEAP  
TOBACCO,

Defendant.

NO. 1:20-CV-00390-MAC-ZJH

## **ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

On January 5, 2021, the court referred this case to the Honorable Zack Hawthorn, United States Magistrate Judge. (#7). Pending before the court are Plaintiffs/Counter-Defendants Republic Technologies (NA), LLC and Republic Tobacco LP’s (“Republic”) Motion to Dismiss, or in the Alternative, Motion for More Definite Statement (“First Motion to Dismiss”) (#34) and Motion to Dismiss Amended Counterclaims (#52). On December 8, 2022, the magistrate judge issued his Report and Recommendation, recommending that the District Court deny Republic’s First Motion to Dismiss (#34) as moot because Gross’s Amended Counterclaims (#50) superseded this motion. In the same report, the magistrate judge recommended granting Republic’s Motion to Dismiss Amended Counterclaims (#52).

On December 28, 2022, *pro se* Defendant/Counter-Plaintiff Theresa M. Gross d/b/a Tees Cheap Tobacco [hereinafter, “Gross”] filed a pending Objection to the magistrate judge’s Report and Recommendation (#59), as well as a Demand for Trial by Jury (“Demand”) (#60). The court conducted a *de novo* review of the objections in relation to the parties’ filings and the

applicable law. 28 U.S.C. § 636(b)(1)(C). After careful consideration, the court finds the objections have no merit and that Judge Hawthorn correctly concluded that Republic's First Motion to Dismiss (#34) should be denied as moot, and that Republic's Motion to Dismiss Amended Counterclaims (#52) should be granted.

It is therefore **ORDERED** that the report and recommendation of the magistrate judge (#57) is **ADOPTED**. Plaintiff/Counter-Defendants Republic Technologies (NA), LLC and Republic Tobacco LP's Motion to Dismiss, or in the Alternative, Motion for More Definite Statement (#34) is **DENIED AS MOOT**, and Plaintiff/Counter Defendants' Motion to Dismiss Amended Counterclaims (#52) is **GRANTED**.

SIGNED at Beaumont, Texas, this 11th day of January, 2023.

  
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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE